

FILED

OCT 12 2021

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK

FREDERICK E. LEONARD BD 7691

Name and Prisoner/Booking Number

NORTH KERN STATE PRISON

Place of Confinement

P.O. BOX 5000

Mailing Address

DELAND, CA 93216-5000

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FREDERICK EUGENE LEONARD

(Full Name of Plaintiff)

Plaintiff,

"LT" (LEUTINANT) O'CONNOR

(1)

(Full Name of Defendant)

(2)

(3)

(4)

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

CASE NO.

2:21CV1886 EFB (PC)

(To be supplied by the Clerk)

CIVIL RIGHTS COMPLAINT
BY A PRISONER☒ Original Complaint☐ First Amended Complaint☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☒ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).☐ Other: _____2. Institution/city where violation occurred: FOLSOM STATE PRISON

B. DEFENDANTS

1. Name of first Defendant: LT O'CONNER The first Defendant is employed as:
(LEUTIHANT) O'CONNER at SOLANO STATE PRISON
(Position and Title) (Institution)
2. Name of second Defendant: HOWARD MOSELEY The second Defendant is employed as:
"ASSOCIATE DIRECTOR" at "OFFICE OF APPEALS"
(Position and Title) (Institution)
3. Name of third Defendant: _____ The third Defendant is employed as:
_____ at _____
(Position and Title) (Institution)
4. Name of fourth Defendant: _____ The fourth Defendant is employed as:
_____ at _____
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☒ Yes ☐ No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: LEONARD v. THOMPSON
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) IN NINTH CIRCUIT (PENDING)
 - b. Second prior lawsuit:
 1. Parties: LEONARD v. KAUR
 2. Court and case number: 2:19-CV-02771
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) still pending IN the DISTRICT COURT
 - c. Third prior lawsuit:
 1. Parties: LEONARD v. CASILIAS
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) PENDING IN THE NINTH CIRCUIT.

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION

CLAIM I

1. State the constitutional or other federal civil right that was violated: 14th AMENDED / DUE-PROCESS / BIASEDNESS

2. Claim I. Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input checked="" type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. Supporting Facts. State as briefly as possible the FACTS supporting Claim I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

ON 1-5-2021, PLAINTIFF UNDERWENT A DISCIPLINARY HEARING HELD BY ONE "LT" (LEUTENANT) "O'CONNER" AT FOLSOM STATE PRISON REGARDING RVR # LOG NO. 7048873. PLAINTIFF COMPLAINED THAT I WAS DENIED THE RIGHT TO PRESENT LIVE WITNESSES, DENIED THE RIGHT TO PRESENT VIDEO EVIDENCE IN HIS OWN DEFENSE, DENIED THE RIGHT TO PRESENT DOCUMENTARY EVIDENCE IN HIS OWN DEFENSE AND WAS FOUND GUILTY AT THE CONCLUSION OF THIS HEARING HELD BY "LT" O'CONNER. PLAINTIFF ALSO COMPLAINED THAT LT O'CONNER WAS BIASED DURING THE ADJUDICATION, AS HE DID NOT CONSIDER ANY OF THE FACTS STATED ABOVE BUT STILL FOUND THE PLAINTIFF GUILTY. LT O'CONNER CLAIMED THAT HE WAS UNBIASED AS AN ADJUDICATOR OF THE HEARING, AS HE CLAIMED THAT HE WAS "SUFFICIENT EVIDENCE TO SUBSTANTIATE THE GUILTY FINDINGS, AND "ARTICULATED THE ENCLUSIVE EVIDENCE IN THE MATTER WITH AND EXPLANATION OF HOW IT WEIGHED IN THE FINDINGS." PLAINTIFF COMPLAINED OF THESE ISSUES IN HIS 602 APPEAL/COMPLAINT ("STAFF") AGAINST LT O'CONNER, AT LEVEL 1,2, PLAINTIFF'S APPEAL WAS DISAPPROVED, AT THE "TLR" (THIRD LEVEL OF REVIEW) PLAINTIFF WAS TOLD HIS TIME WAS "EXPIRED" BECAUSE THE "THIRD LEVEL REVIEW" FAILED TO RESPOND TO THE CLAIM IN "60" CALENDAR DAYS, AND NO ACTION WOULD BE TAKING, AND NO OTHER APPEAL IS PERMITTED UNDER THE REGULATIONS, PLAINTIFF WAS ALSO INFORMED THAT HIS SUBMITTED DOCUMENTS WOULD NOT BE RETURNED.

4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

PLAINTIFF SUFFERED "60" DAYS CREDIT LOSS AND CLASSIFICATION SCORE INCREASE, PLAINTIFF'S CHARACTER HAS BEEN DEFAMED AND I WAS FOUND GUILTY AT AN "RVR" HEARING THAT VIOLATED HIS DUE-PROCESS RIGHTS, WITHOUT THE RIGHT TO PROPERLY DEFEND HIMSELF, IN AN "PARTIAL" TRIBUNAL.

5. Administrative Remedies:

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- Did you submit a request for administrative relief on Claim I? ☒ Yes ☐ No
- Did you appeal your request for relief on Claim I to the highest level? ☒ Yes ☐ No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not.

PLAINTIFF WAS TOLD AT THE THIRD LEVEL REVIEW ("OAA") THAT THE OFFICE OF APPEALS FAILED TO RESPOND TO PLAINTIFF'S COMPLAINT IN "60" CALENDAR DAYS AND THEREFORE TIME EXPIRED BECAUSE OF HIS OWN FAILURE TO RESPOND TO PLAINTIFF COMPLAINTS IN "60" DAYS

CLAIM II

1. State the constitutional or other federal civil right that was violated: 14th AMEND / DUE - PRO
CESS

2. Claim II. Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input checked="" type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: | |

3. Supporting Facts. State as briefly as possible the FACTS supporting Claim II. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

IN AUGUST OF 2021, PLAINTIFF RECEIVED NOTIFICATION FROM THE "COA" (OFFICE OF APPEALS) STATING THAT "PURSUANT TO TITLE 15 SECTION 3486(i) (10) "THE OFFICE OF APPEAL IS NOT ABLE TO RESPOND TO CLAIM # 80315 (GRIEVANCE) BECAUSE IT FAILED TO RESPOND TO THE CLAIM IN "60" CALENDAR DAYS, and IN PLAINTIFF'S CASE THE CLAIM MUST BE ANSWERED "TIME-EXPIRED", and as a RESULT, the answer PROVIDED BY THE "OFFICE OF GRIEVANCES" REMAINS UNCHANGED as DISAPPROVED and the APPEAL NUMBER # 80315 WAS CLOSED and NO FURTHER ACTION IS PERMITTED under the REGULATIONS. ALSO THIS NOTICE WHICH WAS SIGNED BY HOWARD E. MOSELY, THE "ASSOCIATE DIRECTOR" (OF THE COA), STATED THAT "THE APPEAL PACKAGE SUBMITTED BY THE PLAINTIFF CLAIMANT WOULD BE "RESTORED" BY THE DEPARTMENT, and "NOT RETURNED" TO THE PLAINTIFF PER TITLE 15, SECTION 3485(e). PLAINTIFF ASSESS THAT THE OOA (THIRD LEVEL) REVIEW HAS OPENLY ADMITTED THAT IT FAILED TO RESPOND TO PLAINTIFF'S CLAIM OR COMPLAINT WITH IN "60" DAYS PERIOD, IT OPENLY EXPLAINS THAT PLAINTIFF WILL NOT RECEIVE DOCUMENTS (APPEAL PACKAGE) THAT PLAINTIFF SUBMITTED TO THE "OOA" (THIRD LEVEL OF REVIEW). THE OOA ALSO EXPLAINS HOW PLAINTIFF'S CLAIM IS ANSWERED "TIME-EXPIRED" and THAT THE APPEAL WAS NO CLOSED WITH NO OTHER ACTION PERMITTED. PLAINTIFF ASSESS THAT THESE ACTIONS VIOLATE PLAINTIFF'S 14th AMEND RIGHT TO DUE-PROCESS. PLAINTIFF RECEIVED THIS THIRD LEVEL REVIEW "TLR" NOTICE AT NORTH KERN STATE PRISON.

4. Injury. State how you were injured by the actions or inactions of the Defendant(s). AS STATED IN COMPLAINT # 2 PLAINTIFFS DUE-PROCES RIGHT WERE VIOLATED BY ASSOCIATE DIRECTOR HOWARD E. MOSELY, THERE BY THWARTING PLAINTIFF'S RIGHT TO PROPER "VINDICATION" "ADJUDICATION" BY NOT ADDRESSING THE PLAINTIFF'S COMPLAINT, and THEREFORE "TIME-EXPIRING" PLAINTIFF'S 602 APPEAL COMPLAINT.

5. Administrative Remedies.

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- Did you submit a request for administrative relief on Claim II? ☒ Yes ☐ No
- Did you appeal your request for relief on Claim II to the highest level? ☒ Yes ☐ No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. PLAINTIFF WAS TOLD BY THE "FIRST LEVEL OF REVIEW" THAT THIS COMPLAINT WAS ABOVE THEIR LEVEL OF REVIEW / HOWARD MOSELY STATED THAT THE COMPLAINT # 80135 (GRIEVANCE) WAS "TIME-EXPIRED" BECAUSE OF HIS FAILURE TO RESPOND TO

CLAIM III

1. State the constitutional or other federal civil right that was violated: _____

2. **Claim III.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

☐ Basic necessities ☐ Mail ☐ Access to the court ☐ Medical care
☐ Disciplinary proceedings ☐ Property ☐ Exercise of religion ☐ Retaliation
☐ Excessive force by an officer ☐ Threat to safety ☐ Other: _____

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

[illegible]

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

- ## 5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Claim III? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Claim III to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not.

If you assert more than three Claims, answer the questions listed above for each additional Claim on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking: PLAINTIFFS DUE-PROCESS RIGHTS WERE "CLEARLY" VIOLATED BY BOTH DEFENDANTS LT O'CONNOR & HOWARD MOSELEY. BOTH DEFENDANTS BOTH ARE IN POSITIONS TO HAVE KNOWN THE VIOLATIONS THEY CAUSED. LT O'CONNOR PURPOSELY AND "MALICIOUSLY" HARMED PLAINTIFF DURING AN DISCIPLINARY HEARING AS DESCRIBED IN PLAINTIFF'S COMPLAINT #1. ASSOCIATE DIRECTOR OF THE OFFICE OF APPEAL (ODA), HOWARD E. MOSELEY VIOLATED THE PLAINTIFFS DUE-PROCESS RIGHT OF THE 14 AMER AS DESCRIBED IN COMPLAINT #2 AS WELL. PLAINTIFF PROPERLY PRAYS FOR \$100,000 IN PUNITIVE DAMAGES (MONEY), AS WELL AS COMPENSATORY.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10-7-2021
DATE
OCTOBER 7TH, 2021

Frederick E. Leonard
SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space you may attach more pages, but you are strongly encouraged to limit your complaint to twenty-five pages. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages. Remember, there is no need to attach exhibits to your complaint.